application and the '897 patent be determined expeditiously through interference proceedings in the Patent and Trademark Office. The present applicants would be senior party in such an interference by reason of their having an earlier effective filing date.

Applicants have recently learned that the '897 Patent is being reexamined pursuant to a Request for Reexamination filed by the '897 Patent owner on March 27, 2000, over four months after the present applicants initially requested that an interference be declared. Applicants are aware that MPEP § 2284 provides that specific authorization of the Deputy Assistant Commissioner for Patent Policy and Projects is required for an Interference to be declared between an application and a patent that is involved in a pending reexamination proceeding. Applicants respectfully submit that the circumstances of the present case clearly justify the institution of copending reexamination and interference proceedings, and request that the Examiner seek such specific authorization.

For the convenience of the Examiner, the information required by 37 C.F.R. § 1.607 is again set forth below under headings that correspond to the subsections under 37 C.F.R. §1.607.

In addition, in order to simplify and expedite the Examiner's consideration of the above request and the declaration of an interference, Applicants have cancelled claims 39-55 submitted in the initial Preliminary Amendment filed November 10, 1999 without prejudice to their being presented in later exparte prosecution after the requested interference is resolved. Claims 39-55 correspond to and are exactly the same as claims 2-5, 14-16, 19, 21, 22, 26, 33, 38, 41, 43, 44 and 48 of U.S. Patent No. 5,835,897.

I. IDENTIFICATION OF PATENT

The '897 Patent issued November 10, 1998 to Dennis K. Dang of Phoenix, Arizona, as "Computer Implemented Method For Profiling Medical Claims" on application Serial No. 08/493,728, filed June 22, 1995. Symmetry Health Data Systems is the assignee on the face of the '897 Patent.

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II. **PRESENTATION OF PROPOSED COUNT**

Applicants propose the following single count that corresponds exactly to the alternative union of independent Claims 1 and 33 of the '897 Patent, which are the only independent claims of that patent:

COUNT

A computer-implemented process for processing medical claims including the steps of:

(a) reading a medical claim data, input as at least one of a plurality of data records, into a computer memory;

(b) validating each of the at least one of a plurality of data records for at least one of a diagnosis code and a treatment code;

(c) reading at least one pre-defined relationship between the at least one of a diagnosis code and a treatment code in the validated at least one of a plurality of data records and pre-defined episode treatment categories; and

(d) grouping the validated at least one of a plurality of data records to an episode treatment category based upon the pre defined relationship, each episode treatment category having a dynamic time window defining a time period during which validated at least one of plurality of data records may be grouped to an episode treatment category, or

a computer-implemented process for processing medical claims including the steps of:

(a) reading a first patient's medical claim data, input as at least one of a plurality of data records, into a computer memory;

(b) validating each of the at least one of a plurality of data records for at least one of a diagnosis code and a treatment code;

(c) reading at least one pre-defined relation between the at least one of a diagnosis code and a treatment code in the validated at least one of a plurality of data records and pre-defined medical episodes; and

(d) grouping the validated at least one of a plurality of data records to at least one of a plurality of episode treatment groups, each of the at least one of a plurality of episode treatment groups further comprising an episode treatment group identifier, a most recent anchor from date of treatment and a most recent sequential anchor record count.

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III.   **IDENTIFY AT LEAST ONE CLAIM IN THE PATENT CORRESPONDING TO THE PROPOSED COUNT**

Claims 1 and 33 of the '897 patent correspond exactly to the first and second alternative forms of claim in the proposed count.   Additionally, all of the remaining claims 2-32 and 34-52 of the '897 Patent correspond substantially to the proposed count.

IV.   **IDENTIFY CLAIM IN PRESENT APPLICATION CORRESPONDING TO PROPOSED COUNT**

Claim 38 of the present application corresponds exactly to the first alternative form of claim in the proposed count. Claim 38 was originally submitted in this application with the initial request for interference filed November 10, 1999.   Claims 2 32 and 34-52 of the '897 Patent correspond substantially to the proposed count because they are directed to the same invention as such proposed count. Claims 2–32 are all directly or indirectly dependent on Claim 1, which corresponds exactly to the first alternative form of claim in the proposed count. Claims 2–32 add only various minor details to Claim 1 that are not separately patentable from the invention claimed in Claim 1. Claims 34-52 are all directly or indirectly dependent on Claim 33, which corresponds exactly to the second alternative form of claim in the proposed count. Claims 34-52 add only various minor details to Claim 33 that are not separately patentable from the invention claimed in claim 33.

V.   **APPLICATION OF THE TERMS OF APPLICATION CLAIM 38 TO THE DISCLOSURE OF THE APPLICATION**

Appendix A contains a claim chart that applies the terms of application claim 38 to the disclosure of the application as amended.

4

VI.   **35. U.S.C. § 135(b) IS SATISFIED**

Claim 38 of the present application was submitted in the present application on November 10, 1999. Accordingly, because claim 38 was made prior to one year from the date on which the '897 Patent was granted, November 10, 1988, 38 U.S.C. § 135.(b) is satisfied.

VII.   **APPLICANT'S PRIMA FACIE CASE OF PRIORITY**

The '897 Patent is based on an application having an earliest effective filing date of June 22, 1995. The present application is a continuation of United States Patent Application Serial No. 08/539,413, filed October 5, 1995, which, in turn, is a division of United States Patent Application Serial No. 08/244,795, filed June 23, 1994. Because the present application is entitled to the priority to United States Patent Application Serial Nos. 08/244,795 and 08/539,413, it has an effective filing date of June 23, 1994, almost one year before the effective filing date of the application on which the '897 Patent is based. Accordingly, Applicant is the senior party and *prime facie* entitled to judgment relative to the patentee.
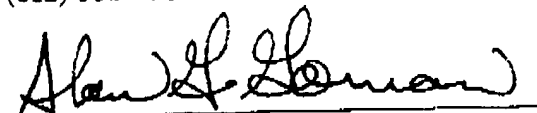
CONCLUSION

Applicant respectfully requests that an interference be declared between the present application and the '897 Patent on the basis of the above proposed count and that claim 38 of this application and claims 1-52 of the '897 Patent be designated as corresponding to the count. Please charge any fees for the extra claims to Deposit Account No. 13-2725. Any questions concerning this matter may be directed to the undersigned at 612-371-5219.

Respectfully submitted,

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Dated: January 16, 2001

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5